

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

KAREN GLASSMAN-BROWN and  
LARRY BROWN,

Plaintiffs,

v.

POURING WINE, LLC,

Defendant.

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14-cv-03763 (TPG)(KNF)

**OPINION**

Plaintiffs Karen Glassman-Brown and Larry Brown commenced this action against Pouring Wine, LLC asserting causes of action for strict liability, negligence and loss of consortium after a wine decanter manufactured by defendant shattered in Glassman-Brown's right hand. The plaintiffs sought damages in the amount of \$750,000.00, plus medical-care costs in the amount of \$37,370.00.

On March 19, 2015, the Clerk of Court entered a default against defendant, and the action was referred to Magistrate Judge Fox to conduct an inquest on damages.

On August 5, 2015, Judge Fox issued a Report and Recommendation. Judge Fox recommended that plaintiffs be awarded \$210,350 (\$200,000 for Glassman-Brown's past pain and suffering, \$10,000 to Brown for loss of consortium, and \$350 in expenses), plus

post-judgment interest to be calculated by the Clerk of Court pursuant to 28 U.S.C. § 1961. Judge Fox recommended denial of plaintiffs' applications for future loss of earnings, pre-judgment interest, attorneys' fees, future pain and suffering, and medical costs. With regard to future pain and suffering, Judge Fox found the evidence insufficient to recommend an award of damages, specifically mentioning the absence of actuarial tables used to determine Glassman-Brown's projected life span. With regard to medical costs, Judge Fox noted that the medical records submitted were not properly authenticated, and therefore recommended no award be given.

Plaintiffs filed a timely objection pursuant to Federal Rule of Civil Procedure 72 on September 2, 2015, arguing that the court should award damages for future pain and suffering and medical costs. As exhibits to the objection, Plaintiffs submitted actuarial tables and authenticated medical records.

On October 7, 2015, the court adopted Judge Fox's Report and Recommendation except for the denial of awards for future pain and suffering and medical costs, and referred the case back to Judge Fox for review of the appropriate amount of damages to be awarded based on the newly submitted evidence.

On February 29, 2016, Judge Fox issued a second Report and Recommendation, recommending that plaintiffs be awarded medical costs in the amount of \$52,458.69 as well as \$400,000 for Glassman-

Brown's future pain and suffering. No objections were filed to Judge Fox's second Report and Recommendation.

A district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Where, as here, neither party has made any objections, the court reviews the Report and Recommendation for clear error. *Remsen Funding Corp. of New York v. Ocean W. Holding Corp.*, No. 06-cv-15265 (DLC), 2009 WL 874212, at \*1 (S.D.N.Y. Mar. 31, 2009).

The court finds no clear error in Judge Fox's February 29, 2016, Report and Recommendation, and thus, adopts the Report and Recommendation in its entirety. Plaintiffs are awarded \$52,458.69 for medical costs and \$400,000 for Glassman-Brown's future pain and suffering. This award is in addition to the prior award of \$210,350 (\$200,000 for Glassman-Brown's past pain and suffering, \$10,000 to Brown for loss of consortium, and \$350 in expenses) plus post-judgment interest from this court's October 7, 2015, opinion. The Clerk of Court is directed to close the case.

SO ORDERED.

Dated: New York, New York  
April 5, 2016

  
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Thomas P. Griesa  
U.S. District Judge